



TO THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED AMENDMENTS TO THE
BOARD'S SPECIAL WASTE
REGULATIONS CONCERNING
USED OIL, 35 ILL. ADM. CODE 808, 809

ADDITIONAL COMMENTS OF GREGORY RAY

I am Gregory Ray, Vice President of Business Management for Heritage – Crystal Clean, LLC (“HCC”). I thank the Illinois Pollution Control Board for hearing my testimony on May 25, 2006 and for considering the following additional comments responding to the Illinois Environmental Protection Agency’s comments filed October 10, 2006 (“IEPA 10/10/06 Comments”).

After reading the IEPA 10/10/06 Comments, I am left with the impression that IEPA is making complex and convoluted legal arguments to defend the position they have staked out, and that these arguments are made absent a real world understanding of the used oil business.

Perhaps the easiest way for me to illustrate this is to provide a real-world example of a very common business situation.

Our company, HCC, is asked by a customer to pick up their used oil. Let me refer to this customer as "ABC Manufacturing," and let me represent that they are a mid-size machine shop employing about 100 workers in the fabrication of their product. ABC asks for HCC for a price quotation to handle their used oil. HCC discusses this with the customer, and we are shown their 1,000 gallon used oil tank, which needs to be emptied about once every two weeks. In talking with the customer, HCC learns that this tank is filled from several points within the ABC shop, including (a) lubricating oils drained from ABC's machine tools and vehicles; (b) cutting oils and coolants used in ABC's machining operations; and (c) wash water from washing floors to clean up oil spills. ABC certifies to HCC (in writing) that they don't mix any hazardous waste into their used oil. HCC takes a sample of the used oil and sends it to a laboratory, where testing supports this customer certification as the sample is found to contain less than 700 ppm of chlorine. The analysis also shows that for this sample, the water content was approximately 20%.

Based on this work, HCC decides that ABC generates a material the can be managed pursuant to used oil regulations and issues ABC a price quote. ABC accepts the proposal. HCC begins to pick up the used oil every two weeks. With each pickup, ABC re-certifies that they don't mix any hazardous waste into their used oil. HCC realizes that due to the way that ABC generates the used oil, the water content can vary significantly from one service to the next. Ideally, HCC would like to know the water content at each pickup, since this impacts the commercial value of the used oil. However, HCC doesn't have any reliable field test to measure water content. So HCC

relies on the initial test result to value the used oil based on 20% water, and pays or charges ABC accordingly.

The used oil that HCC collects from ABC is managed as used oil pursuant to Illinois and Federal used oil regulations, and is taken to a used oil recycling facility. This recycling facility recovers the used oil, and treats and disposes of the BS&W¹, all in compliance with regulations governing used oil recyclers (including 40 CFR 279) and local water discharge standards.

Please realize that ABC is not an intellectually-contrived or isolated example. It is a real example. In fact, my company collects used oil from hundreds of generators like ABC, and there are thousands in Illinois alone. For years, generators like ABC have been managing their oily wastestreams in just this fashion, commingling the used oils and having them collected by used oil collectors and hauled to used oil recycling facilities.

It was the intent of the NORA proposal to exempt ABC from the requirement of using a waste manifest – so that ABC could simply accept and file a used oil tracking document prepared by HCC².

¹ BS&W is the abbreviated reference for bottom sediment and water, a common term in the used oil and oilfield industries.

² This used oil tracking document serves as a DOT bill of lading, and describes the used oil and used oil mixtures according to the appropriate DOT shipping descriptions, just like this is done on a waste manifest. IEPA has suggested that the use of a waste manifest would provide more information, but we do not agree – since both documents are required to use the same DOT shipping descriptions. However, the used oil tracking document does

In stark contrast, it seems that the IEPA's position is that ABC has been mismanaging their wastes for years and must now change their behavior. In particular, ABC has mixed materials that are true used oil as defined (their lubricating oils drained from machines and vehicles) with other oil-like mixtures such as coolants and oil-contaminated waste water. ABC has previously acted on their understanding that these materials are subject used oil regulations only, and the materials have been described on special waste manifests as used oil. ABC has sent their used oil to a facility operating under Part 739, and has never sought to redirect this material to a special waste facility operating under Parts 808 and 809. It seems that IEPA would like to make ABC's prior actions in this regard illegal – in spite of the fact that IEPA has visited ABC's facility, and has never previously suggested to ABC that their used oil management practices are inconsistent with Illinois regulations or law.

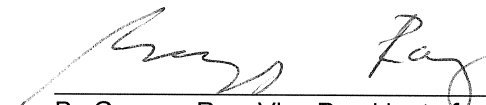
If the IEPA proposal were to be adopted, not only would ABC (and thousands of generators like them) need to change their management practices in Illinois, but **THIS NEW APPROACH WOULD BE UNIQUE TO ILLINOIS**. That is to say, ABC's sister plants located in other states would still continue to mix their used oil and oily water wastestreams and send them offsite to used oil recyclers. Only in Illinois would generators need to distinguish between "used oil" as defined, and other materials that are like used oil and subject to regulation as used oil. Obviously this is an expensive

allow transporters to reflect other business information, such as pricing and billing – something not possible using a waste manifest.

and complex new burden to impose on generators and transporters of used oil, which is why we are so opposed to the IEPA language.

It is ironic that NORA's proposal was intended to reduce unnecessary paperwork, whereas the IEPA views this as an opportunity to increase regulation of generator and transporter activities that have been legally allowed practice for years. Obviously we cannot accept this unintended outcome, and we urge you to reject the IEPA effort to hijack NORA's proposal.

Thank you for considering NORA's proposal and my comments. I believe that this proposal is in the best interests of the citizens of the state of Illinois.



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